

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
 v.) CASE NO. 3:07cr150-MHT
)
BENJAMIN FOSTER)

MOTION TO RESCIND PRELIMINARY ORDER OF FORFEITURE

Comes now the United States of America, by and through Leura G. Canary, United States Attorney, Middle District of Alabama, and Tommie Brown Hardwick, Assistant United States Attorney, and moves this Court to rescind the Preliminary Order of Forfeiture (Doc. #35) stating as follows:

This Honorable Court entered a Preliminary Order of Forfeiture (Doc. #35) on April 8, 2008, forfeiting defendant's interest in the following firearm: a Remington, Model 7400, .30-06 rifle, bearing serial number 8566182.

The firearm was reported as stolen and is not forfeitable.

The United States submits that the Preliminary Order of Forfeiture (Doc. #35) should be rescinded and declared void *ab initio*.

A proposed Order is attached.

Respectfully submitted this 3rd day of July, 2008.

LEURA G. CANARY
UNITED STATES ATTORNEY

/s/Tommie Brown Hardwick
TOMMIE BROWN HARDWICK
Assistant United States Attorney
Bar Number: ASB4152 W86T
131 Clayton Street
Montgomery, Alabama 36104
Phone: (334) 223-7280
Fax: (334) 223-7135
E-mail: tommie.hardwick@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Respectfully submitted,

/s/Tommie Brown Hardwick
TOMMIE BROWN HARDWICK
Assistant United States Attorney

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O R D E R

Upon consideration of the Motion to Rescind Preliminary Order of Forfeiture heretofore filed in the above-styled cause, and for good cause shown, the Court is of the opinion that the motion should be and the same is hereby GRANTED. It is, therefore, **CONSIDERED, ORDERED, ADJUDGED AND DECREED** by the Court that said Motion be and the same is hereby granted and the Preliminary Order of Forfeiture (Doc. #35) entered April 8, 2008, is hereby rescinded and declared void *ab initio*.

DONE this ____ day of _____, 2008.

UNITED STATES DISTRICT JUDGE